

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

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20:DEV/0107

July 7, 2020

To: Daniel E. Orodenker, Executive Officer
Land Use Commission 

From: Janice Takahashi, Interim Executive Assistant

Subject: Village 9 and Lots 7 and 9 of File Plan 2128
Docket No. A90-660 - Annual Report for 2020
Villages of La'i'opua
Kealakehe, Hawaii
Tax Map Key Nos. (3) 7-4-020: 004; 7-4-021: 042 & 043

Pursuant to the Land Use Commission's (LUC) Order in Docket No. A90-660, transmitted herewith is an original and one copy of an annual report on the status of Village 9 and Lots 7 and 9 of File Plan 2128 at the Villages of Laiopua (VOLA) development and Hawaii Housing Finance and Development Corporation's (HHFDC) progress in complying with conditions imposed by the Commission. In accordance with the LUC's letter to HHFDC dated October 1, 2007, an electronic pdf version of the annual report is being concurrently emailed to the LUC at LUC@dbedt.hawaii.gov.

Land Use Commission Action

Reclassification of approximately 727 acres from Agricultural District and Conservation District into Urban District, situated at Kealakehe, North Kona, Island and County of Hawaii, State of Hawaii, identified as Hawaii Tax Map Key No.: (3) 7-4-008; portion of 017, now known as Tax Map Key Nos.: (3) 7-4-020: 001 to 007, 023, 024, 025; 7-4-021: 001 (por.), 002 to 005, 007, 008, 010 to 013, 014 (por.), 015, 016, 023 (por.), 042, 043; 7-4-022: 001 to 107; 7-4-023: 001 to 128; 7-4-027: 001 to 119, for the development of VOLA was approved by the LUC on December 18, 1990.

Project Status

In accordance with Act 350, Session Laws of Hawaii (SLH) 1997, as of July 1, 1998, the Housing Finance and Development Corporation (HFDC) was combined with the Hawaii Housing Authority into one successor agency, known as the Housing and Community

Development Corporation of Hawaii (HCDCH). In accordance with Act 196 SLH 2005, and Act 180 SLH 2006, as of July 1, 2006, HCDCH was split into two successor agencies, the Hawaii Public Housing Authority and HHFDC.

The Department of Land and Natural Resources (DLNR) is the landowner and HHFDC or its predecessor agencies (hereinafter referred to as HHFDC) was the master developer of the VOLA project in Kealahou, Hawaii, until HHFDC sold its development rights to the Department of Hawaiian Home Lands (DHHL) in December 2004 as further described in this annual report. A copy of the VOLA site map is attached to this annual report as Exhibit A for reference. HHFDC completed the first two components of backbone infrastructure (roadways and utility systems) and dedicated such infrastructure to the State of Hawaii, Department of Transportation (DOT), and the County of Hawaii (County) during 1997 and 1998. Completed infrastructure was sufficient to service the Kealahou High School, the Kealahou golf course property, commercial site, and six residential villages.

The first phase of Kealahou High School was completed in July 1997 and the school welcomed its first class of about 400 students on September 2, 1997. The final phase of construction was completed in December 2003.

The golf course property was set aside to the County for Kealahou Wastewater Reclamation Field and North Kona Golf Course purposes by Governor's Executive Order No. 3665 dated July 18, 1995. No development occurred due to a disagreement between the County and its golf course developer, Kealahou Associates, Inc. On January 28, 2011, Governor's Executive Order No. 4354 cancelled Governor's Executive Order No. 3665 dated July 18, 1995 and Governor's Executive Order No. 4355 set aside the property to the County for Kealahou Wastewater Reclamation Field, North Kona Golf Course and/or Public Park purposes. The County now plans to develop the former golf course property as a regional park.

Pursuant to Act 95 SLH 1996, DLNR transferred the 51-acre Village 3 property to the DHHL by Land Patent Grant No. S-15,900 dated May 12, 1997. DHHL commenced construction in the first calendar quarter of 1998 and completed the development of 225 single-family homes for qualified native Hawaiians in the fall of year 2000.

On September 18, 1998 and July 9, 1999, the HHFDC Board of Directors consented to the transfer of Village 4 from DLNR to DHHL. Village 4 was transferred to DHHL by Land Patent Grant No. S-15,939 dated December 1, 2000 pursuant to Village 4 Transfer Agreement dated April 20, 2000. Under the Village 4 Transfer Agreement, DHHL is required to submit annual reports on the status of compliance with the conditions of LUC Docket No. A90-660, directly to the LUC, with a copy to HHFDC.

On October 16, 1998, the HHFDC Board of Directors approved a right of entry to McClean Honokohau Properties (McClean) for the design, construction and dedication of Road "G" to the County. Road "G" is a 60' wide roadway within VOLA which will connect the DOT's Kealakehe Parkway within VOLA to the McClean property to the north. Construction of Road "G" commenced in August 1999 and was completed in the summer of 2000. On April 16, 2001, the County granted final subdivision approval of Road "G." The Board of Land and Natural Resources (BLNR) approved the dedication of Road "G" to the County on April 12, 2001 and Road "G" was dedicated by Land Patent Grant No. S-15,959 dated March 25, 2004. Road "G" is now named Kamanu Street.

On April 19, 2000, McClean submitted a request to HHFDC for a right of entry for the design, construction and dedication of Main Street to the County. Main Street is parallel to, and located mauka of Road "G," and would connect McClean's property with Kealakehe Parkway as does Road "G." On April 12, 2001, BLNR approved the subdivision of Main Street, a right-of-entry for the construction of Main Street, the dedication of Road "G" and Main Street to the County, and the development agreement between HHFDC and McClean. On April 16, 2001, the County granted final subdivision approval for Main Street. On November 14, 2001, the HHFDC Board approved the execution of a development agreement and the Main Street Development Agreement was executed on February 11, 2002. On July 22, 2004, McClean submitted a request to extend the Main Street Development Agreement by three years from February 11, 2006 to February 11, 2009. The request was not presented to the HHFDC Board for approval and Main Street remains unbuilt.

On July 19, 2000 and April 26, 2001, the HHFDC Board of Directors approved the execution of the development agreement and form of the lease with Hawaii Youth Patrons (HYP) for the development and leasing of approximately 38 acres of Village 6 for a Youth Center, YMCA and neighborhood park (Hawaii Youth Center). On May 25, 2001, BLNR approved the set aside of the land to HHFDC, consented to the development agreement and lease with HYP, and granted a management right-of-entry to HHFDC for the project. A development agreement for the project was executed on August 31, 2001. Under the development agreement, HYP is required to satisfy specified conditions including the raising of sufficient funds for the development of the project by April 26, 2004. The land was set aside to HHFDC by Governor's Executive Order No. 3895 dated January 26, 2002.

In 2003, HYP requested for a 1-year extension to its development agreement. On March 18, 2004, the HHFDC Board approved a 90-day extension of the development agreement to July 25, 2004. On July 15, 2004, the HHFDC Board approved the

termination of the development agreement with HYP for the Hawaii Youth Center. Since the development agreement with HYP was terminated, on August 27, 2004, BLNR approved the cancellation of the set aside to HHFDC for the Hawaii Youth Center project. Executive Order No. 4068 canceling the set aside to HHFDC for the Hawaii Youth Center project, Executive Order No. 3895, was executed by the Governor on September 24, 2004.

On November 15, 2001, the HHFDC Board approved the execution of a transfer agreement with the County and DLNR for the set aside of a portion of Village 8 to the County for a County office building; BLNR approved this matter on December 14, 2001. The County granted final subdivision approval of the subject parcel of land on September 11, 2002. The Village 8 Transfer Agreement was executed on October 3, 2002 and the land was set aside to the County by Executive Order No. 3952 dated October 25, 2002 for West Hawaii Civic Center purposes. Under the Village 8 Transfer Agreement, the County is required to submit annual reports on the status of compliance with the conditions of this LUC Docket No. A90-660, directly to the LUC, with a copy to HHFDC. HHFDC estimates that the West Hawaii Civic Center commenced construction in 2008 and was completed in 2010.

On July 18, 2001, the County submitted a request to HHFDC for approval of a pedestrian and bicycle route over the existing water easement from the Kealakehe High School to the existing Kealakehe Street mauka of the VOLA project. On October 18, 2001, the HHFDC Board approved the easement over land owned by HHFDC and an easement was issued on March 12, 2003. The easement over State land was issued by DLNR on February 20, 2003.

By letter dated June 26, 2004, the County requested to amend the existing pedestrian and bicycle easement to include limited vehicular use, primarily to accommodate school traffic between Kealakehe High School and Kealakehe Elementary and Intermediate Schools mauka of the VOLA project. BLNR approved the amendment on July 9, 2004, and the HHFDC Board approved the amendment on July 15, 2004.

On August 21, 2000, HHFDC filed a motion with the LUC to amend Condition No. 1 of the Decision and Order for this project. The motion sought to amend the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County to a requirement established by agreement with the County. This matter came up for hearing before the LUC on October 18, 2000 and was continued.

Meanwhile, Act 100 SLH 2001 was enacted which waived, for undeveloped lands at VOLA, the affordable housing requirement of 60% of the units to families up to 120% of

the HUD median income for the County of Hawaii imposed by Act 15 SLH 1988, to a requirement established by agreement between HHFDC and the County.

Development of residential fee simple for-sale housing was placed on hold pending resolution of the Office of Hawaiian Affairs' (OHA) claim that ceded land cannot be alienated. The OHA claim was adjudicated in a lawsuit filed against HHFDC on transfer of ceded land for the Villages of Leialii on Maui; trial for the alienation phase was concluded in November 2001. On December 5, 2002, State Circuit Court Judge Sabrina McKenna ruled that the State could sell ceded land, however, her decision was appealed to the Hawaii Supreme Court. On January 31, 2008, the Hawaii Supreme Court overturned the trial court's decision and held that the State of Hawaii was barred from selling, exchanging, or transferring ceded lands to any third party. On April 29, 2008, the Attorney General announced that a Petition for a Writ of Certiorari was filed with the U.S. Supreme Court seeking to overturn the Hawaii Supreme Court decision.

In October 2008, the U.S. Supreme Court decided to hear the State's appeal of the Hawaii Supreme Court decision. Arguments were heard by the U.S. Supreme Court on February 25, 2009 and on March 31, 2009, the U.S. Supreme Court unanimously reversed the decision of the Hawaii Supreme Court on the grounds that the U.S. Apology Resolution did not prevent the alienation of ceded lands, and remanded the case back to the Hawaii Supreme Court for further action. On May 6, 2009, The Honolulu Advertiser reported that the ceded lands litigation had been settled for all plaintiffs, except one (Jonathan Osorio). On October 28, 2009, the Honolulu Advertiser reported that the ceded lands litigation by the remaining plaintiff, Osorio, was ordered dismissed by the Hawaii Supreme Court.

On July 13, 2009, the Governor signed SB1677 SD1 HD2 CD1 into law as Act 176 SLH 2009. This Act requires a community informational briefing, appraisal and two-thirds vote approval of both houses of the legislature for conveyance of State land to third parties in fee simple. Act 176 was amended by Act 169 SLH 2011 and is now codified as Section 171-64.7, Hawaii Revised Statutes (HRS).

On November 23, 2003, DHHL expressed an interest in acquiring certain HHFDC lands including Village 8 of the Villages of Kapolei and Village 1A of the Villages of Leialii. On May 13, 2004, the HHFDC Board approved the negotiations with DHHL to sell HHFDC's interest in Village 8 of the Villages of Kapolei, Villages 1A and 1B of the Villages of Leialii, and the undeveloped lands at the Villages of La'iopua. On June 17, 2004, the HHFDC Board approved the execution of a transfer agreement to sell the following properties to DHHL at a price of \$33 million in equal annual payments over a 15 year period:

- Village 8 of the Villages of Kapolei;
- Phases 1A and 1B of the Villages of Leialii;
- HHFDC's interest in the undeveloped lands at the Villages of La'i'opua, except Villages 9 and 10; and
- Waiahole Valley Agricultural Park Subdivision and Residential Subdivision.

On July 20, 2004, the Hawaiian Homes Commission approved the transfer of the above properties to DHHL. On August 27, 2004, BLNR approved the sale of the undeveloped lands at VOLA, except Villages 9 and 10, to DHHL. A transfer agreement identifying all terms and conditions of the sale was executed by DLNR, DHHL and HHFDC on December 30, 2004. In the transfer agreement, DHHL is required to comply with all conditions of the LUC Decision and Order in Docket No. A90-660 and continue with the annual reporting requirements to the LUC for the VOLA project.

On April 26, 2004, the Hawaii Health Systems Corporation (HHSC) requested for Villages 9 and 10 for a proposed medical and elderly/assisted living complex, to be called the Kona Community Hospital. On January 28, 2005, the HHFDC Board relinquished its development rights to Village 9 to DLNR for the development of a medical facility to be commenced by December 31, 2010, and if no development is done, the development rights to Village 9 reverts back to HHFDC. On June 24, 2005, BLNR approved the conveyance of Village 9 to HHSC for the development of a medical facility. Development of the medical facility did not commence by December 31, 2010, therefore development rights to Village 9 reverted back to HHFDC. See attached Exhibits A and B.

On August 29, 2017, HHFDC received a letter from Mayor Kim of the County of Hawaii requesting for a set aside or ground lease to 15-20 acres of the makai portion of Village 9 for permanent facilities for the homeless and an immediate right-of-entry to approximately 5 acres for an emergency homeless shelter project.

On September 14, 2017, the HHFDC Board approved BLNR's set aside of Village 9 to HHFDC, a right-of-entry to the County for approximately 5 acres for an emergency homeless shelter, subdivision, a ground lease to the County for 15 to 20 acres at \$1/year for 65 years for permanent facilities for the homeless, easements for access and HHFDC's leasehold development of the mauka portion of Village 9 for an affordable multi-family rental project. On October 13, 2017, BLNR approved the set aside and an immediate management right-of-entry of Village 9 to HHFDC. On December 19, 2018, Executive Order No. 4575 set aside Village 9 to HHFDC for affordable housing and related purposes.

On April 2, 2018, HHFDC and the County executed a Memorandum of Understanding and on April 5, 2019, HHFDC and the County executed a Revocable Right-of-Entry in accordance with the Governor's Emergency Proclamation to address homelessness, for the planning, design, construction and operation of the County's Kukuiola homeless emergency shelters and permanent supportive housing project at Village 9.

On November 23, 2019, the County's consultant, PBR HAWAII & Associates, Inc. published a Final Environmental Assessment (EA) and Finding of No Significant Impact for the Proposed Kukuiola and Village 9 Affordable Rental Community (November 2019). See the proposed site plan for Village 9 attached hereto as Exhibit C. After subdivision of Village 9, HHFDC plans to issue a ground lease to the County at \$1/year for 65 years for the County's Kukuiola project.

On December 12, 2019, the HHFDC Board of Directors approved a budget of \$4 million from the Dwelling Unit Revolving Fund for the planning, design, construction and dedication of a public access road for the County's Kukuiola and HHFDC's affordable rental project at Village 9. The Governor approved the release of DURF funds on February 14, 2020.

On September 8, 2005, HHFDC requested DLNR for approximately 272 acres of non-ceded lands on Palani Road in Kealahou, North Kona, Hawaii, TMK (3) 7-4-08: por. 056 (Parcel 56), for affordable housing, subject to HHFDC's relinquishment of its development rights to Village 10 at VOLA to DHHL. Approximately 164 acres of Parcel 56, including Villages 12, 13 and 14, the elementary school and a park, constituted a part of the VOLA project. On October 14, 2005, DLNR approved HHFDC's request for the non-ceded lands. On October 20, 2005, the HHFDC Board approved the acquisition of the non-ceded lands on Palani Road for affordable housing and approved the relinquishment of HHFDC's development rights to Village 10 to DHHL. The Hawaiian Homes Commission had no objections to HHFDC's request when discussed as an informational item on October 25, 2005. First Amendment of Transfer Agreement dated May 2, 2006 between HHFDC and DHHL for VOLA transferred HHFDC's development rights to Village 10 at VOLA to DHHL. On July 9, 2007, HHFDC acquired title to 272.063 acres of non-ceded land from DLNR by Land Patent Grant No. S-16,019 and Land Office Deed No. 28,884 for development of affordable housing, subject to a reservation to the State of Hawaii Department of Education for a school site within the premises. The project is now known as HHFDC's Kamakana Villages at Keahuolu master planned community. See attached Exhibit B.

HHFDC completed a master plan and notices of a Final Environmental Impact Statement (FEIS) and the Governor's acceptance of the FEIS for Kamakana Villages

were published in the Office of Environmental Quality Control's (OEQC) bulletin on October 8, 2008 and December 23, 2008, respectively.

After a Request for Proposal (RFP) process, on March 3, 2009, HHFDC executed loan documents for a \$25 million interim loan from its Dwelling Unit Revolving Fund (DURF) and on March 31, 2009 HHFDC executed a development agreement (Development Agreement) for the development of Kamakana Villages with Forest City Hawaii Kona, LLC (Forest City).

On June 29, 2009, fee simple title to the Kamakana Villages project site was conveyed to escrow, F.H.T. Exchange, Inc., which later conveyed title to a newly formed, single-purpose entity, FHT Kamakana, LLC, by deed dated June 30, 2009.

The Kamakana Villages project site includes remnant lots 7 and 9 of File Plan 2128, Tax Map Key Nos. (3) 7-4-021: 043 & 042 (Lots 7 and 9), respectively, see attached Exhibit D. Lots 7 and 9 are a part of the VOLA which was reclassified by the LUC in Docket No. A90-660 on December 18, 1990. Lots 7 and 9 are held by escrow, FHT Kamakana, LLC, and HHFDC plans to develop Lots 7 and 9 as a part of Kamakana Villages.

On September 5, 2017, the Kamakana Villages Development Agreement and DURF loan were assigned to Alakai Development Kona I LLC¹ to complete and dedicate the Manawalea Street Extension and Forest City was released from the Development Agreement and DURF loan. On April 17, 201, the Kamakana Villages Development Agreement, entitlements and related agreements were assigned to SCD Kamakana, LLC.²

Land Use Conditions

The following is a progress report on conditions imposed by the LUC for Village 9 and Lots 7 and 9 of the VOLA development:

Condition No. 1:

Petitioner shall provide housing opportunities for low and moderate income Hawaii residents by offering for sale or rent on a preferential basis a number of residential units equal to sixty (60) percent of the residential units to be developed on the property to residents of the State of Hawaii with incomes up to 120 percent of the median family

¹ Former employees of Forest City.

² A subsidiary of Stanford Carr Development, LLC.

income for the County of Hawaii as determined by the U.S. Department of Housing and Urban Development (HUD), based on family size and a number of residential units equal to forty (40) percent of the residential units to be developed on the property to residents of the State of Hawaii with incomes greater than 120 percent of the median income for the County of Hawaii.

Status: *On August 21 2000, HHFDC filed a motion with the LUC seeking to amend the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County of Hawaii to a requirement established by agreement with the County of Hawaii. This matter came up for hearing before the LUC on October 18, 2000 and was continued.*

Meanwhile, Act 100 SLH 2001 was enacted which waived, for undeveloped lands at VOLA, the affordable housing requirement of 60% of the units to families up to 120% of the HUD median income for the County of Hawaii imposed by Act 15 SLH 1988, to a requirement established by agreement between HHFDC and the County.

Village 9 and Lots 7 and 9 comply with this requirement because Village 9 is a County project consisting of the County's Kukuiola homeless emergency shelters and permanent supportive housing and HHFDC's affordable multi-family rental housing project will be affordable to households at 60% and below the U.S. Department of Housing and Urban Development's area median income (AMI), and remnant Lots 7 and 9 are a part of HHFDC's Kamakana Villages at Keahuolu master planned community, where more than 50% of the residential units will be affordable to households at 140% or below the AMI, pursuant to 201H exemptions approved by the County Council.

Condition No. 2:

Petitioner shall design and construct all structures and buildings in compliance with County, State, and Federal codes and standards.

Status: *HHFDC will design and construct all structures and buildings to comply with applicable County, State, and Federal codes and standards.*

Condition No. 3:

Petitioner shall submit to the County of Hawaii, Department of Public Works (DPW), all master plans for roadways, water, wastewater, drainage, and utilities for review prior to submittal of the individual construction plans for the various villages and non-residential uses.

Status: *Master plans for roadways, water, wastewater, drainage, and utilities developed by HHFDC have been submitted to the County of Hawaii, DPW for review and approval.*

Condition No. 4:

Petitioner shall coordinate with the State of Hawaii, DLNR, DHHL, and OHA to address the issue of ceded lands.

Status: *In 1994, OHA filed suit on the conveyance of public trust lands to HHFDC for the Villages of Leiali'i ceded lands on Maui. The alienation phase of the trial was completed in November 2001. On December 5, 2002, State Circuit Court Judge Sabrina McKenna ruled that the State could sell ceded lands. Judge McKenna's decision was overturned by the Hawaii Supreme Court, however the U.S. Supreme Court overturned the Hawaii Supreme Court. OHA's lawsuit was settled or dismissed after the enactment of Section 171-64.7, HRS.*

Village 9 is compliant with Section 171-64.7, HRS, because both the County's Kukuiola and HHFDC's affordable rental projects will be developed in leasehold. A public access road will be developed to provide access to the County's Kukuiola and HHFDC's affordable rental projects, and is proposed to be dedicated to the County by Executive Order from DLNR. Section 171-64.7, HRS does not apply to Lots 7 and 9 because Lots 7 and 9 are held in escrow.

Condition No. 5:

There shall be no occupancy of any structures on the property until a permanent solution to the smoke, fumes, and other health hazards associated with the Kealakehe landfill is in place.

Status: *The Kealakehe landfill is closed, and a system of berms and gas exhaust measures have been installed pursuant to an approved closure plan.*

Condition No. 6:

Petitioner shall disclose in its deeds to all initial purchasers of residential units on the property the possible odor, air, noise, and dust pollution resulting from the Kealakehe landfill, and from Queen Kaahumanu Highway, Kealakehe Parkway, Palani Road, and any other roadways which are within or adjacent to the site.

Status: *HHFDC has disclosed these LUC Conditions, including this Condition to the County for Village 9 in its MOU with the County dated April 2, 2018, will require its developer of the affordable rental project at Village 9 to disclose this Condition to its tenants, and will require its master developer of Kamakana Villages to disclose this Condition in its deeds or leases to all initial purchasers or lessees of residential units on Lots 7 and 9, of the possible odor, air, noise, and dust pollution resulting from the Kealakehe landfill, and from Queen Kaahumanu Highway, Kealakehe Parkway, Palani Road, and any other roadways which are within or adjacent to the site.*

Condition No. 7:

In residential areas, Petitioner shall be responsible for implementing sound attenuation measures to reduce vehicular traffic noise levels in the petition area, including along Kealakehe Parkway, Palani Road, and other roadways, to levels acceptable to the State of Hawaii, Department of Health (DOH) and DOT.

Status: *Noise attenuating improvements such as landscaping, earth berms, walls, etc. will be incorporated as required along existing and proposed highways.*

Condition No. 8:

Petitioner shall participate in an air quality monitoring program as specified by DOH.

Status: *HHFDC will require its developers to participate in applicable air quality monitoring program as specified by DOH.*

Condition No. 9:

Petitioner shall implement effective soil erosion and dust control measures during all phases of the development.

Status: *Dust control measures such as watering and dust screens, and erosion control measures such as retention basins and diversion channels will be employed as required by law during construction.*

Condition No. 10:

Petitioner shall coordinate with the County of Hawaii, DLNR, other appropriate landowners, and/or other Federal, State, or County agencies regarding measures designed to obtain the required water for the project. Petitioner shall provide the necessary water source, storage, and transmission facilities to service the proposed project.

Status: *HHFDC is working with its development partners and DLNR and the County Department of Water Supply (DWS) to provide necessary water for Village 9 and Lots 7 and 9 in Kamakana Villages.*

Condition No. 11:

Petitioner shall connect the wastewater system for the proposed development on the property to the Kealakehe Wastewater Treatment Plant. Construction of the structures within the property shall not commence until the Petitioner has obtained assurances from the County of Hawaii that capacity at this plant and the effluent disposal system has been reserved for the property; provided that, if the capacity at the Kealakehe Wastewater Treatment Plant and effluent disposal system is not sufficient for the proposed development on the property, Petitioner may utilize other alternatives acceptable to DOH.

Status: *A Wastewater Treatment Facilities Agreement with the County of Hawaii was executed on March 19, 1992, and HHFDC contributed \$5.1 million for assurance of sufficient sewer treatment capacity to service the project. Sewer lines to connect to the County plant were constructed as part of the Phase 2-A backbone infrastructure program. The County has indicated that there is sufficient capacity at the Kealakehe Wastewater Treatment Plant to accommodate the County's Kukuiole and HHFDC's affordable rental community at Village 9.*

In the sale of VOLA to DHHL, HHFDC reserved capacity at the Kealakehe Wastewater Treatment Plant in the amount of 431,360 gallons per day for Kamakana Villages, including the completed 170-unit Kamakana Family and Senior Rental Housing Projects at Manawalea Street.

Condition No. 12:

Petitioner shall participate in the funding and construction of transportation improvements at project access points as identified and deemed necessary by DOT and in consultation with the County of Hawaii, DPW. Petitioner shall set aside land for a park and ride facility, transit stop facility and other regional traffic improvements as proposed by applicable transportation agencies. Petitioner shall also participate on a fair share basis in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development of the property and in designs and schedules coordinated with and accepted by the State of Hawaii, DOT, and in consultation with the County of Hawaii, DPW, provided that the extent of Petitioner's participation shall not exceed its fair share of the increased community impacts in the region, and provided further that in the event the County of Hawaii adopts an impact fee for transportation improvements, the foregoing funding requirement may be modified or deleted to the extent that the cost of any specific traffic improvement is also included in the County of Hawaii's impact fee computation.

Status: *HHFDC will work with DOT and the County of Hawaii-DPW to meet transportation needs. HHFDC constructed the Kealakehe Parkway through the project site with CIP funds. Under the Phase 2-A backbone infrastructure program, HHFDC funded and constructed segments of all County-standard roadways required to service six villages and the high school site. Kealakehe Parkway was dedicated to DOT and the balance of the existing roadways were dedicated to the County during 1997 and 1998. Installation of a*

traffic signal at the intersection of Kealakehe Parkway and Queen Kaahumanu Highway was completed by DOT in September 1997. Village 9 accesses off of Kealakehe Parkway.

Traffic improvements at Kamakana Villages for Lots 7 and 9 are governed by a Memorandum of Understanding with DOT dated November 20, 2014 and a Memorandum of Agreement with the County dated March 10, 2016.

Condition No. 13:

Petitioner shall undertake periodic monitoring of traffic conditions within and adjacent to the property throughout the project's development period with the approval of DOT and in consultation with the County of Hawaii, DPW. Petitioner shall implement highway and other transportation improvements as required by DOT and in consultation with the County of Hawaii, DPW.

Status: *Traffic studies were prepared in conjunction with the Phase 2-A backbone infrastructure program, and will be revised as conditions dictate. All planned transportation improvements have been coordinated with DOT and the County of Hawaii.*

Condition No. 14:

Petitioner shall appoint a transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. In the alternative, Petitioner may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems.

Status: *VOLA is in general conformance with the County's regional development (Keahole to Kailua) plan. With the sale of VOLA to DHHL by transfer agreement dated December 30, 2004, as amended, DHHL is the master developer of VOLA.*

Condition No. 15:

Petitioner shall dedicate sufficient frontage to allow for a 300-foot right-of-way along Queen Kaahumanu Highway. Petitioner shall also dedicate sufficient frontage as

determined by the State of Hawaii, DOT to allow for a right-of-way at the Kealakehe Parkway interchange of Queen Kaahumanu Highway.

Status: *This condition was met by subdivision of the additional right-of-way in 1993. The property was transferred to DOT by Executive Order No. 3702 dated April 3, 1997.*

Condition No. 16:

Petitioner shall ensure that a buffer area along the boundary of the property be constructed to maintain the visual integrity from Queen Kaahumanu Highway. Petitioner shall further ensure that the proposed community shopping center or any other proposed use abutting Queen Kaahumanu Highway be screened from passing motorists and the Kaloko-Honokohau National Historic Park by landscaping improvements.

Status: *This condition does not apply to Village 9 nor Lots 7 and 9.*

Condition No. 17:

Petitioner shall preserve 19 historic sites and archaeological data recovery from 60 historic sites, as agreed previously in writing with the Historic Preservation Division, DLNR, in compliance with Chapter 6E, Hawaii Revised Statutes. The applicant shall submit to the State Historic Preservation Division a detailed historic preservation mitigation plan in two parts, a preservation plan portion and an archaeological data recovery plan option. This mitigation plan must be approved by the State Historic Preservation Division, prior to any field work and prior to any construction in the vicinity of historic sites. Also, Petitioner must obtain verification by the state Historic Preservation Division that successful execution of the mitigation plan has been completed prior to any construction in the vicinity of historic sites.

Status: *An Archaeological Inventory Survey Report and subsequent Addendum addressing revisions to the main text was submitted to DLNR, State Historic Preservation Division (DLNR-SHPD) for their review and approval.*

The Mitigation Program Plan (Phase I): Mitigation Plan for Data Recovery and Interim Site Preservation) was approved by DLNR-SHPD in 1994.

A Phased Archaeological Mitigation Program, Kealakehe Planned Community, Phase II: Archaeological Data Recovery, dated June 1994, was completed and submitted to DLNR-SHPD on July 11, 1994.

By letter dated May 15, 1996, SHPD indicated that fieldwork for the Phased Archaeological Mitigation Plan: Archaeological Data Recovery (1994) was adequate, however, revisions to the report were needed. This report has not been finalized since the Villages of La'i'opua project was placed on hold and was sold to DHHL.

An Archaeological Inventory Survey of Kukuioia and Village 9 within the Villages at La'i'opua, ASM Affiliates (June 2019) was completed and included as Appendix C in the draft EA for Village 9 published in the OEQC bulletin on August 8, 2019.

Condition No. 18:

Petitioner shall immediately stop work on the impacted area and contact the DLNR-Historic Preservation Division should any significant archaeological resources such as artifacts, shell, bones or charcoal deposits, human burial, or rock or coral alignments, paving or walls of historic or prehistoric significance be encountered during the development of the property.

Status: *HHFDC will require its developers to comply with Condition No. 18 for the development of Village 9 and Lots 7 and 9.*

Condition No. 19:

Petitioner shall establish plant reserves for the uhiuhi plant (*Caesalpinia kawaiiensis*). There shall be one five-acre preserve and one half-acre preserve around each remaining uhiuhi plant. In addition, Petitioner shall formulate a fire contingency plan prior to construction in the project area. The fire contingency plan shall be approved by DLNR, Division of Forestry and Wildlife.

Status: *On February 8, 2016, HHFDC executed a Memorandum of Understanding (MOU) with the U.S. Fish and Wildlife Service (FWS) for the set aside of two No Development Areas for the development of Village 9 and on February 25, 2016 executed an MOU with the FWS for the development of Kamakana Villages. HHFDC has required the County and the master developer of*

Village 9 and Kamakana Villages, respectively, to comply with the applicable MOU with FWS.

Condition No. 20:

Petitioner shall coordinate with the County of Hawaii and DOH to establish appropriate systems to contain spills and prevent materials such as petroleum products, chemicals, solvents or other pollutants from leaching into the storm drainage system and adversely affecting the groundwater and coastal waters.

Status: *HHFDC will require its developers to comply with Condition No. 20 during the development of the property.*

Condition No. 21:

Petitioner shall develop and maintain on-site facilities to ensure that the nearshore, offshore and deep ocean waters remain in pristine condition. Petitioner shall also participate in a water quality monitoring program with the Natural Energy Laboratory of Hawaii and the Hawaii Ocean Science and Technology Park.

Status: *HHFDC will require its developers to comply with Condition No. 21.*

Condition No. 22:

Petitioner shall prepare a drainage and erosion control plan and shall fund and construct the necessary drainage improvements and maintain ocean water quality to the satisfaction of DOH. Petitioner shall, to the extent necessary as determined by the County of Hawaii, coordinate off-site improvements with adjoining landowners and developers, and/or other Federal, State, or City agencies.

Status: *HHFDC will require its developers to comply with Condition No. 22.*

Condition No. 23:

Petitioner shall comply with "The Eight (8) Conditions Applicable to This Golf Course Development," prepared by DOH dated April 1990 (Version), introduced as the Office of State Planning Exhibit No. 5.

Status: *The golf course property was set aside to the County of Hawaii by Governor's Executive Order No. 3665 dated July 18, 1995. No development occurred due to a disagreement between the County*

and its golf course developer, Kealakehe Associates, Inc. HHFDC was not a party to the County's agreements with the golf course developer. On January 28, 2011, Governor's Executive Order No. 4354 cancelled Governor's Executive Order No. 3665 dated July 18, 1995 and Governor's Executive Order No. 4355 set aside the property to the County for Kealakehe Wastewater Reclamation Field, North Kona Golf Course and/or Public Park purposes. The County now plans to develop the former golf course property into a regional park.

Condition No. 24:

Petitioner shall engage the services of a qualified golf course manager to oversee the irrigation of the golf course and application of fertilizers and pesticides to the golf course within the Property and who shall be qualified in the application of fertilizers and pesticides on those areas.

Status: *See Condition No. 23.*

Condition No. 25:

Petitioner shall make available adequate golf tee times at affordable rates for public play by residents of the State of Hawaii.

Status: *See Condition No. 23.*

Condition No. 26:

Petitioner shall fund and install, to the specifications and satisfaction of the State Office of Civil Defense, the necessary number of emergency siren units (including infrastructure within the project area and a siren paging encoder in the Kona Police Department substation.)

Status: *With the sale of VOLA to DHHL by transfer agreement dated December 30, 2004, as amended, DHHL is now the master developer of VOLA.*

Condition No. 27:

Petitioner shall provide at no cost to the State of Hawaii, DOE, the school sites with infrastructure, and facilities as may be required by DOE.

Status: *Roadways and utilities to the Kealahou High School were constructed as part of Phase 2-A backbone infrastructure. Construction of the high school's first phase was completed in July, 1997 and construction of the final phase was completed in December 2003.*

Condition No. 28:

Petitioner shall work with the County of Hawaii to ensure that police, fire, park, and solid waste disposal facilities are in place.

Status: *HHFDC will require its developers to work with the County to comply with Condition No. 28.*

Condition No. 29:

Petitioner shall complete the development on the property in substantial compliance with the representations made before the LUC. Failure to develop may result in the reversion of the property to its former land use classifications or a change to a more appropriate classification.

Status: *HHFDC will require its developers to comply with Condition No. 29.*

Condition No. 30:

Petitioner shall give notice to LUC of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property.

Status: *HHFDC will comply with Condition No. 30 for Village 9 and has required its master developer to comply with Condition No. 30 for Kamakana Villages.*

Condition No. 31:

Petitioner shall provide annual reports to LUC, Office of State Planning, and the County of Hawaii, Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.

Status: *HHFDC will comply with Condition No. 31 for Village 9 and has required its master developer to comply with Condition No. 31 for Kamakana Villages.*

Condition No. 32:

The Commission may fully or partially release these conditions as to all or any portion of the petition area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner. Adequate assurance of satisfaction may be evidenced by execution of a certificate of satisfaction in recordable form stating that such condition has been satisfied, in whole or in part. The Office of State Planning will certify for itself and all State departments and agencies, and the Planning Department will certify for itself and all County departments and agencies.

Status: *HHFDC acknowledges Condition No. 32.*

Condition No. 33:

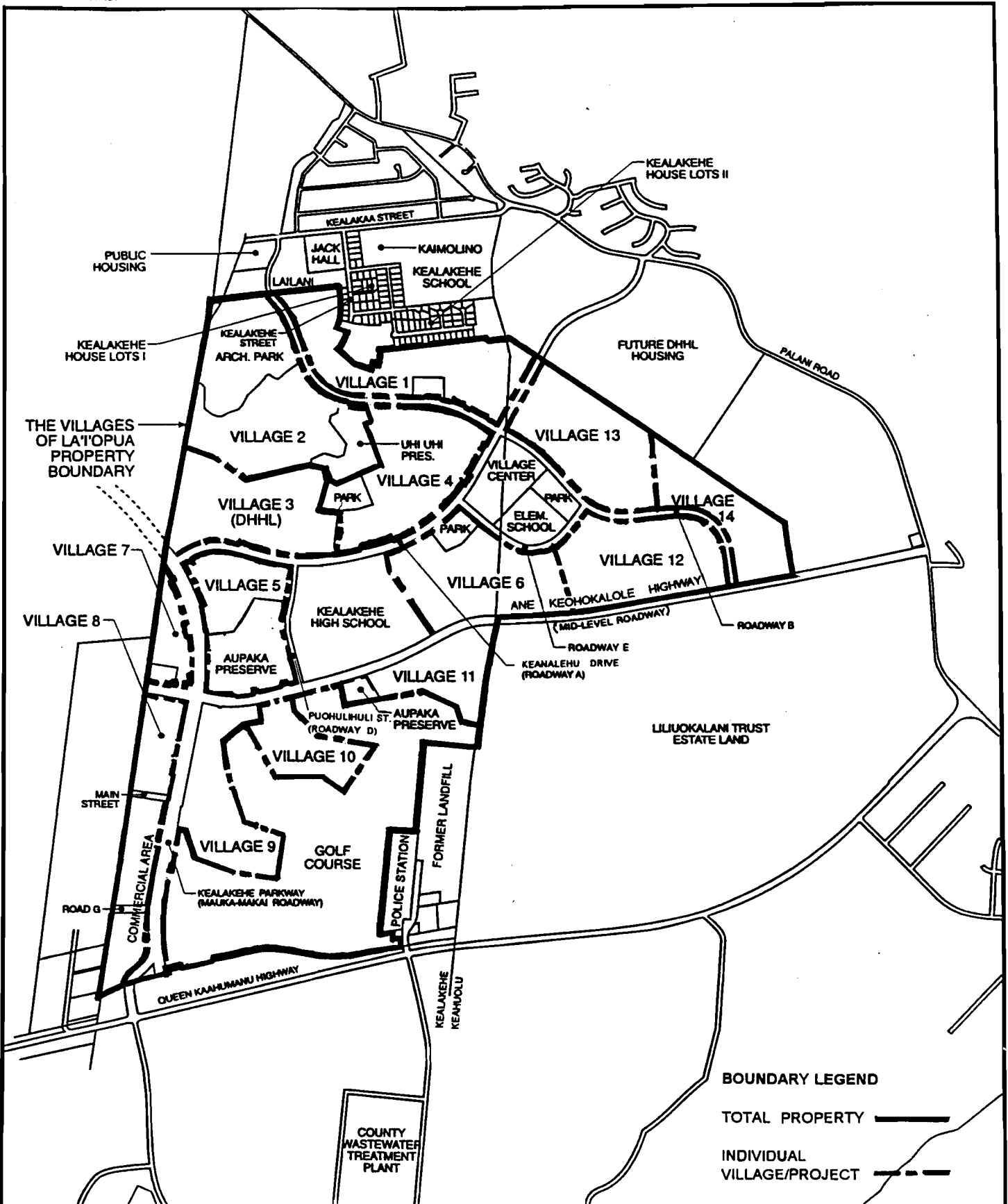
Conditions requiring County agency review, coordination or approval are subject to the powers of HHFDC as expressed in Act 15, Session Laws of Hawaii, 1988.

Status: *Act 15 was automatically repealed on April 19, 1993, five years from the effective date of the Act (April 20, 1988) and is no longer in effect.*

Should there be any questions or comments regarding this Annual Report, please contact Stan S. Fujimoto, Project Manager, at 587-0541.

Attachments: Site Maps

c: Office of Planning, w/attachment
County of Hawaii, Planning Department, w/attachment



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SCALE IN FEET

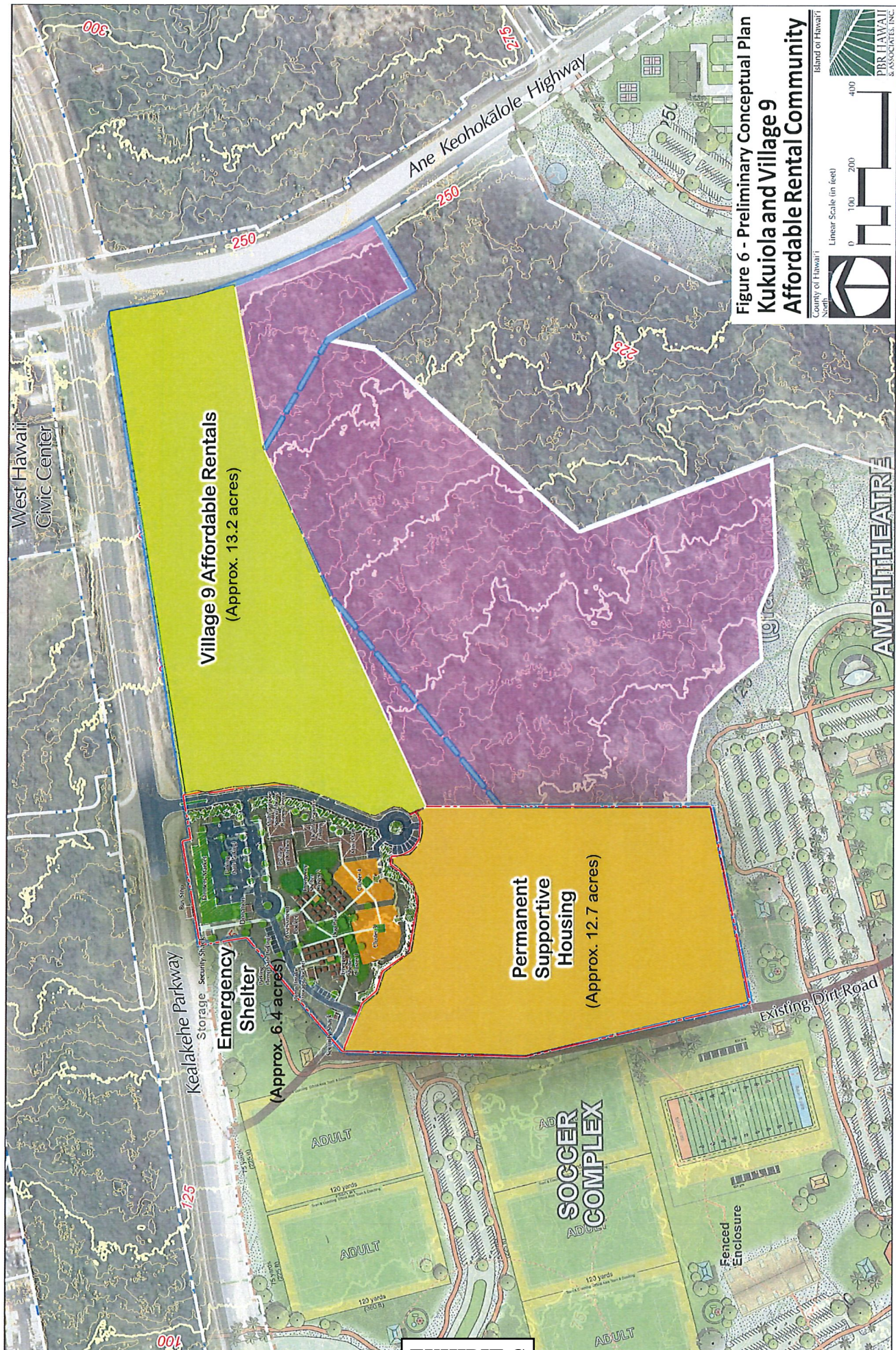
EXHIBIT A

PROJECT STATUS

Villages of La'opua
JAN 1998



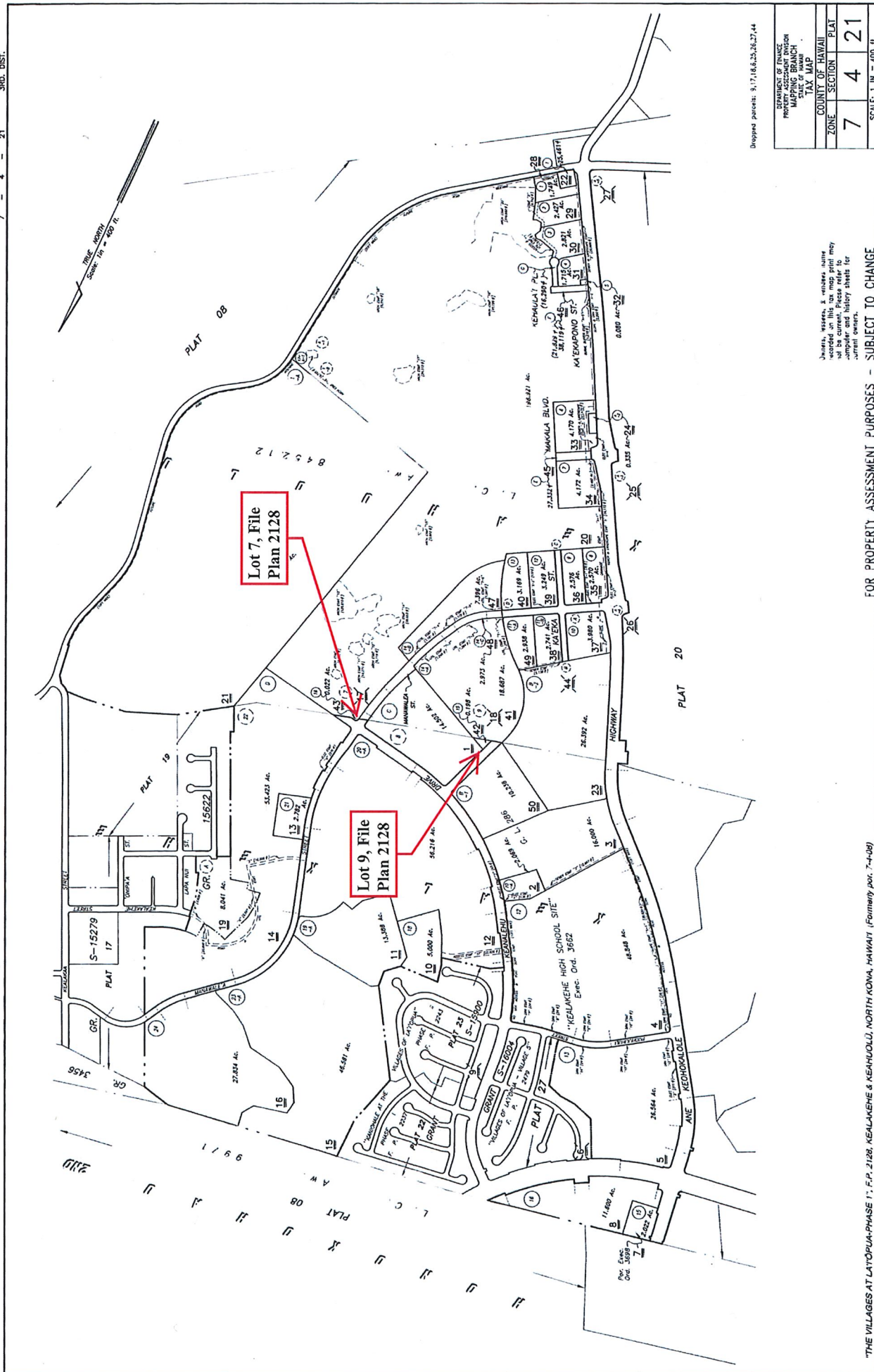
KONA NON-CEDED LAND
Hawaii Housing Finance and Development Corporation



5/21/09
9/28/09
1/14/10
6/25/11
4/28/12
1/14/13
1/22/16
6/19/17
6/20/19

EXHIBIT D

DATE June 20, 2007 BT MS DMO NO.



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